IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 29793 of 2007(V)

PETITIONER:

THANKOM, AGED 54, D/O KOCHU AMMA,
MANGAREE HOUSE, ARATTUPUZHA VILLAGE DESOM,
THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. **DEVAKI AMMA, W/O GOPALAN NAIR,**
   MULLAPPALLY HOUSE, ARATTUPUZHA VILLAGE DESOM,
   THRISSUR TALUK.

2. **CHANDRAN, S/O DEVAKI AMMA,**
   MULLAPPALLY HOUSE, ARATTUPUZHA VILLAGE DESOM,
   THRISSUR TALUK.

3. **DEVAN @ DEVADAS, S/O DEVAKI AMMA,**
   MULLAPPALLY HOUSE, ARATTUPUZHA VILLAGE DESOM,
   THRISSUR TALUK.

4. **SUDHAKARAN, S/O DEVAKI AMMA,**
   MULLAPPALLY HOUSE, ARATTUPUZHA VILLAGE DESOM,
   THRISSUR TALUK.

5. **RADHA, D/O DEVAKI AMMA,**
   MULLAPPALLY HOUSE, ARATTUPUZHA VILLAGE DESOM,
   THRISSUR TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.

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W.P.C. NO. 29793 OF 2007

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Dated this the 8th day of October, 2007.

J U D G M E N T

This writ petition is filed against the order thereby the learned Subordinate Judge, Thrissur refused to examine the first plaintiff on Commission. It is submitted that he is ailing from liver problem and doctors have advised him not to travel much. It is also submitted by the learned counsel that after dismissing the application the Court has posted it for 11.10.07 for final hearing. In a suit of this nature without evidence nothing could be done. Therefore, I feel, even though an application for issuance of a Commission is dismissed, the Court should have given some breathing time for the party to come and depose before Court. Therefore, I direct the learned Subordinate Judge, Thrissur not to proceed with the matter on 11.10.07 but to post the case on 15.10.07 thereby the first plaintiff be permitted to appear before Court and get examined. If he is really unwell the

Court may also take into consideration those circumstances at that time and if the Court is really convinced about the ailment he can be examined on that day itself from the Court or in the premises of the Court by a Commissioner so that undue protraction of his examination is not done.

With these observations, this writ petition is disposed of.

M.N. KRISHNAN, JUDGE.

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